

STATE OF MICHIGAN
COURT OF APPEALS

In re E. L. LOBDELL JR., Minor.

UNPUBLISHED

October 16, 2014

No. 321205

Barry Circuit Court

Family Division

LC No. 08-007772-NA

Before: BORRELLO, P.J., and SERVITTO and SHAPIRO, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) (failure to rectify conditions of adjudication) and (3)(g) (failure to provide proper care and custody). We affirm.

"In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). We review the trial court's determination for clear error. *Id.* "A finding is 'clearly erroneous' if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009) (citation omitted).

The trial court did not clearly err by finding that a statutory ground for termination existed in respondent's case. MCL 712A.19b(3)(c)(i) provides that a trial court may terminate parental rights to a child if it finds, by clear and convincing evidence, that "[t]he parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and . . . [t]he conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age." Here, the trial court entered the initial dispositional order on December 5, 2012, and the termination hearing was held on March 17, 2014. Thus, more than 182 days had elapsed since the issuance of the initial dispositional order.

The conditions that led to the adjudication were respondent's substance abuse, particularly of methamphetamine, respondent's inability to adequately care for the minor child, and respondent's history with domestic violence. The record adequately establishes that respondent failed to sufficiently rectify any of these issues. Respondent failed to attend or complete individual or group counseling sessions aimed at addressing her substance abuse and domestic violence issues and failed to participate in parenting classes. Respondent inconsistently attended parenting time visits and did not participate in any visits after June 2013. Respondent

did comply with all of the terms of her criminal probation, imposed for possession of methamphetamines, and continually tested negative for illegal substances while on probation. Moreover, according to her probation officer, she attended some Alcoholics Anonymous and Narcotics Anonymous meetings, although she failed to provide documentation to her caseworker verifying that fact. Respondent should be commended for these achievements; nonetheless, while on probation, she either refused or failed to submit to numerous drug tests for the agency. She also tested positive for THC in February 2014, soon after her release from probation. Further, at the time of termination, respondent was unemployed and homeless. Accordingly, the trial court did not clearly err by determining that the conditions that led to adjudication continued to exist and that it was unlikely that those conditions could be remedied within a reasonable time.

Respondent argues that she was not provided sufficient resources to comply with the parent-agency treatment plan, especially with regard to parenting time visits. We disagree. Respondent was provided gas cards to assist her in getting to and from services and parenting time visits. She was also informed of public transportation options and the ability of the agency to provide her with compensation for those options. She was informed of the possibility for her to have greater access to resources in bigger areas, such as Kent County, but declined to entertain the idea of relocating. Respondent does not assert what other resources the agency could have provided to assist her with her transportation issues.

The record further reveals that respondent's lack of transportation was not the sole contributor to her failure to substantially comply with the parent-agency plan. At the time she failed to engage in individual and group counseling services, respondent lived within walking distance of those services. Respondent's parenting classes were made available to her online. Her asserted lack of transportation also does not excuse her failure to keep in consistent contact with the agency or the foster parents, or her positive test for THC. Her lack of transportation also apparently did not prevent her from complying with the terms of her probation, which included driving to appointments. With respect to housing and employment, respondent does not identify what additional assistance could have been provided outside of that provided by the agency. "While the DHS has a responsibility to expend reasonable efforts to provide services to secure reunification, there exists a commensurate responsibility on the part of [the parent] to participate in the services that are offered." *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). In respondent's case, the agency made reasonable efforts to reunify respondent and the minor child and respondent failed to sufficiently make use of those services.

Accordingly, the trial court did not clearly err in terminating respondent's rights under MCL 712A.19b(3)(c)(i). Because we have concluded that at least one ground for termination existed, we need not consider the additional ground on which termination was based. *In re HRC*, 286 Mich App at 461. Nevertheless, we have reviewed respondent's arguments and find no clear error in the trial court's finding that the evidence supported termination under MCL 712A.19b(3)(g). While respondent has not challenged the trial court's best-interests determination, we find that the trial court's decision was supported by a preponderance of the evidence.

Affirmed.

/s/ Stephen L. Borrello

/s/ Deborah A. Servitto

/s/ Douglas B. Shapiro